

TITLE 26 HEALTH AND HUMAN SERVICES  
PART 1 HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 558 LICENSING STANDARDS FOR HOME AND COMMUNITY SUPPORT  
SERVICE AGENCIES  
SUBCHAPTER I RESPONSE TO COVID-19 AND PANDEMIC-LEVEL  
COMMUNICABLE DISEASE

#### EMERGENCY RULE ADOPTION PREAMBLE

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 558, Licensing Standards for Home and Community Support Services Agencies, new §558.961, concerning an emergency rule in response to COVID-19 to implement provisions in House Bill 797, passed by the 87th Legislature, Regular Session, 2021, relating to possession and administration of certain vaccines by a home and community support services agency (HCSSA) or its employees. As authorized by Texas Government Code §2001.034, HHSC may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

#### BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this emergency rule for HCSSAs in response to COVID-19.

To protect clients served by HCSSAs and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to allow HCSSAs to purchase, store, and transport COVID-19 vaccine for the purposes of vaccinating clients and staff.

#### STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Texas Health and Safety Code §142.012. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to

adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §142.012 requires the Executive Commissioner of HHSC to adopt rules necessary to implement Chapter 142 of the Texas Health and Safety Code and setting minimum standards for HCSSAs that are necessary to protect the public.

The new section implements Texas Government Code §531.0055 and Texas Health and Safety Code §142.012.

The agency hereby certifies that the emergency rulemaking has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

#### ADDITIONAL INFORMATION

For further information, please call: (512) 438-3161.

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§558.961. Vaccine Authority for Home Health and Hospice Agencies.

(a) Notwithstanding provisions in §558.303 of this chapter (relating to Standards for Possession of Sterile Water or Saline, Certain Vaccines or Tuberculin, and Certain Dangerous Drugs), an agency licensed to provide home health or hospice services may purchase, store, and transport COVID-19 vaccines.

(b) An agency must have and enforce a vaccination policy that ensures vaccines are stored and transported in accordance with:

(1) vaccine manufacturer's instructions; and

(2) Centers for Disease Control and Prevention, Department of State Health Services, and Texas Health and Human Services Commission guidelines.